

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)		
<b>PLAINTIFFS</b> Richard A. Wieland, United States Trustee for Region 20	<b>DEFENDANTS</b> Kelly Robbennolt Mason Schau <u>Barbara Miller</u>			
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.) Paul R. Thomas, 224 S. Boulder Ave., Room 225, Tulsa, OK 74103 (918) 581-6687	<b>ATTORNEYS</b> (If Known) Unknown			
<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input checked="" type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee			
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Complaint alleging violations of 11 USC Section 110, seeking disgorgement, fines, and injunctive relief.				
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b>  <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property  <input type="checkbox"/> 12-Recovery of money/property - §547 preference  <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer  <input type="checkbox"/> 14-Recovery of money/property - other   <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b>  <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property   <b>FRBP 7001(3) – Approval of Sale of Property</b>  <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)   <b>FRBP 7001(4) – Objection/Revocation of Discharge</b>  <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)   <b>FRBP 7001(5) – Revocation of Confirmation</b>  <input type="checkbox"/> 51-Revocation of confirmation   <b>FRBP 7001(6) – Dischargeability</b>  <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims  <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud  <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny  <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b>  <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support  <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury  <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan  <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)  <input type="checkbox"/> 65-Dischargeability - other   <b>FRBP 7001(7) – Injunctive Relief</b>  <input type="checkbox"/> 71-Injunctive relief – imposition of stay  <input checked="" type="checkbox"/> 72-Injunctive relief – other   <b>FRBP 7001(8) Subordination of Claim or Interest</b>  <input type="checkbox"/> 81-Subordination of claim or interest   <b>FRBP 7001(9) Declaratory Judgment</b>  <input type="checkbox"/> 91-Declaratory judgment   <b>FRBP 7001(10) Determination of Removed Action</b>  <input type="checkbox"/> 01-Determination of removed claim or cause   <b>Other</b>  <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i>  <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)           </td> </tr> </table>			<b>FRBP 7001(1) – Recovery of Money/Property</b> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div>	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input checked="" type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 22 , 000 . 00			
Other Relief Sought				

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR James Richard Bolt		BANKRUPTCY CASE NO. 11-80159
DISTRICT IN WHICH CASE IS PENDING Eastern District of Oklahoma	DIVISION OFFICE Okmulgee	NAME OF JUDGE Tom R. Cornish
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)  /s/ Paul R. Thomas		
DATE  September 13, 2011	PRINT NAME OF ATTORNEY (OR PLAINTIFF)  Paul R. Thomas	

### INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

In re:

JAMES RICHARD BOLT,

Debtor.

RICHARD A. WIELAND, United States Trustee,

Plaintiff,

v.

KELLY ROBBENNOLT, an individual,  
d/b/a US Credit Counseling & Bankruptcy  
Protection Group,

MASON SCHAU, an individual,  
and

BARBARA MILLER, an individual,

Defendants.

Case No. 11-80159

Chapter 13

Adv. Proc. No. 11-\_\_\_\_\_

**UNITED STATES TRUSTEE'S COMPLAINT FOR DISGORGEMENT, SANCTIONS  
AND INJUNCTIVE RELIEF AGAINST BANKRUPTCY PETITION PREPARERS  
PURSUANT TO 11 U.S.C. § 110**

Richard A. Wieland, United States Trustee for Region 20, Plaintiff ("UST"), for his complaint for disgorgement, sanctions and injunctive relief against Defendants pursuant to 11 U.S.C. § 110 alleges and states as follows:

## **PARTIES**

1. Plaintiff, Richard A. Wieland ("Plaintiff"), is the United States Trustee for Region 20 which encompasses the Northern District of Oklahoma, with the following business address: Office of the United States Trustee, 224 South Boulder Avenue., Room 225, Tulsa, Oklahoma 74103.

2. Defendant, Kelly Robbennolt ("Robbennolt"), is an individual who also does or did business as US Credit Counseling & Bankruptcy Protection Group, and acts or has acted as a bankruptcy petition preparer ("BPP") as defined in 11 U.S.C. § 110(a). Robbennolt was identified by James R. Bolt ("Debtor"), through a series of e-mail communications with the former Chapter 7 Trustee, Gerald R. Miller, as one of the non-attorney BPP responsible for preparing Debtor's bankruptcy documents. Kelly Robbennolt failed to sign or otherwise identify himself on Debtor's petition and other documents filed in this case. Robbennolt is not an attorney licensed to practice law in the State of Oklahoma. At all times material to the facts and issues underlying this Complaint, Robbennolt was not, and is not, operating as a paralegal under the supervision or control of a licensed attorney. Kelly Robbennolt may be served at his place of residence: 3677 Brandon Way, Missoula, MT 59803.

3. Defendant, Mason Schau ("Schau"), is an individual who also does business as or for US Credit Counseling & Bankruptcy Protection Group, and acts or has acted as a bankruptcy petition preparer ("BPP") as defined in 11 U.S.C. § 110(a). Schau was identified by the Debtor through a series of e-mail communications with the former Chapter 7 Trustee, Gerald R. Miller, as one of the non-attorney BPP responsible for preparing Debtor's bankruptcy documents. Mason Schau failed to sign or otherwise identify himself on Debtor's petition and other documents filed in this case. Schau is not an attorney licensed to practice law in the State of Oklahoma. At all

times material to the facts and issues underlying this Complaint, Schau was not, and is not, operating as a paralegal under the supervision or control of a licensed attorney. Mason Schau may be served at his place of residence: 609 W. 11<sup>th</sup> Street, Cozad, NE 69130.

4. Defendant, Barbara Miller (“Miller”), is an individual who also does business as or has worked for US Credit Counseling & Bankruptcy Protection Group, and acts or has acted as a bankruptcy petition preparer (“BPP”) as defined in 11 U.S.C. § 110(a). Miller signed Debtor’s Petition as a non-attorney petition preparer (see page 3 of Doc # 1) and was further identified by the Debtor through a series of e-mail communications with the former Chapter 7 Trustee, Gerald R. Miller, as one of the non-attorney BPP responsible for preparing Debtor's bankruptcy documents. Barbara Miller is not an attorney licensed to practice law in the State of Oklahoma. At all times material to the facts and issues underlying this Complaint, Miller was not, and is not, operating as a paralegal under the supervision or control of a licensed attorney. Barbara Miller may be served at her place of residence: 2402 Country Club Drive, Pearland, TX 77581.

### **JURISDICTION**

5. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334(a), 28 U.S.C. § 157 and 11 U.S.C. § 110. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A).

6. Venue is proper in this court pursuant to 28 U.S.C. § 1409(a).

7. Plaintiff has standing to seek the relief requested, pursuant to 11 U.S.C. §§ 307 and 110(j)(1).

### **FACTS**

8. Robbennolt, Schau, and Miller (“Defendants”), through US Credit Counseling &

Bankruptcy Protection Group, operate as preparers of bankruptcy documents, including documents filed in the United States Bankruptcy Court for the Northern District of Oklahoma in the bankruptcy case of James Richard Bolt, 11-80159 (originally filed under Chapter 7, but then converted to Chapter 13). Bolt's Petition and Schedules were filed on February 14, 2011.

9. On March 18, 2011, Debtor completed and filed a Pro Se Filing Disclosure which disclosed that he paid \$50.00 to have his bankruptcy petition and schedules prepared, but failed to identify the petition preparer(s). At the 11 U.S.C. § 341(a) meeting ("Meeting of Creditors"), which was continued at least times for Debtor's failure to appear, Debtor identified Kelly Robbennolt, Mason Schau, and Barbara Miller as the individuals who assisted in the preparation of his petition, schedules, and other documents for filing.

10. Defendants prepared at least the following documents that were filed in the Debtor's bankruptcy case: 1.) Voluntary Petition, 2.) Notice to Consumer Debtor(s) Under § 342(b) of the Bankruptcy Code, 3.) Disclosure of Compensation of Bankruptcy Petition Preparer, 4.) Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer, 5.) Schedules A through J, 6.) Statement of Financial Affairs, 7.) Chapter 7 Individual Debtor's Statement of Intention, and 8.) Statement of Current Monthly Income and Means Test Calculation.

11. Defendants Robbennolt and Schau failed to sign or otherwise identify themselves as a BPP on any documents they assisted in the preparation of for filing in this case.

12. Defendant Miller identified herself and signed, as petition preparer: 1.) Voluntary Petition, 2.) Notice to Consumer Debtor(s) Under § 342(b) of the Bankruptcy Code (Miller identified herself but failed to sign this Notice), 3.) Disclosure of Compensation of Bankruptcy Petition Preparer, 4.) Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer, 5.) Schedules A through J, 6.) Statement of Financial Affairs, 7.) Chapter 7 Individual Debtor's

Statement of Intention, and 8.) Statement of Current Monthly Income and Means Test Calculation.

13. Debtor disclosed in his Amended Statement of Financial Affairs (Docket Entry # 71, filed on 6/30/11) that he paid \$500.00 to Barbara Miller. This amount conflicts with the \$50.00 disclosure made by the Debtor on the Pro Se Filing Disclosure filed on 3/18/11.

14. The United States Trustee is informed and believes and, based thereon, alleges that the activities of Defendants, were accomplished through the direction of Kelly Robbennolt d/b/a US Credit Counseling & Bankruptcy Protection Group for a fee of \$799.00.

15. Gerald R. Miller was appointed chapter 7 trustee and presided at the Meeting of Creditors which, after being continued three (3) times, was finally held on July 20, 2011.

16. The United States Trustee is informed and believes and, based thereon, alleges that Defendants have utilized a network of individuals who are located in different physical locations to hide their involvement as BPPs and to avoid being held accountable for compliance with 11 U.S.C. § 110.

### **FIRST CLAIM FOR RELIEF**

#### **(Violation of 11 U.S.C. § 110(f))**

17. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through

16.

18. Defendants advertise their services on various websites and bulletin boards on the internet. A direct quote from a “press release” states, among other things:

“US Credit Counseling & Bankruptcy Protection Group announces complete bankruptcy filings for \$799 covering 35 states. We specialize with local area attorneys.”

*See attached Exhibit “A”.*

19. According to 11 U.S.C. § 110(h)(3)(B), "All fees charged by a bankruptcy petition

preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g)." Therefore, the Court should order Defendants, jointly and severally, to disgorge the entire fee paid to them by Debtor.

20. According to 11 U.S.C. § 110(I), if a BPP violates section 110 or "commits any act that the court finds to be fraudulent, unfair, or deceptive . . . the court shall order the bankruptcy petition preparer to pay . . ." the debtor's actual damages and the greater of \$2,000 or twice the BPP fee (both of which are payable to the debtor). The "press release" on the Free Press Release website violates this provision inasmuch as it implies attorneys are involved. Therefore, Plaintiff requests that the Court order Defendants, jointly and severally, to pay not less than \$2,000 plus Debtor's actual damages to Debtor.

## **SECOND CLAIM FOR RELIEF**

### **(Violation of 11 U.S.C. § 110(e)(2)(B)(iii))**

21. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through

20.

22. In preparing Debtor's bankruptcy documents for filing, Defendants selected the property claimed exempt by the Debtor which was listed on Schedule C - Property Claimed as Exempt. *See* Docket Entry #1, page 16 of 41.

23. Debtor did not select his exemptions or instruct Defendants regarding which Oklahoma statutes to list on his petition to exempt his property. Debtor was unfamiliar with the Oklahoma exemption statutes that were listed on Schedule C to support his exemption claims.



Defendants selected Debtor's exemptions and advised Debtor that he would be able to keep the property listed as exempt.

24. Pursuant to 11 U.S.C. §110(e)(2)(B)(iii), a BPP may not advise a debtor regarding "whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title." Defendants' advice to Debtor violated this provision. By offering such advice, Defendants violated 11 U.S.C. §110(e)(2)(B)(iii).

25. According to 11 U.S.C. § 110(h)(3)(B), "All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g)." Therefore, the Court should order Defendants, jointly and severally, to disgorge the entire fee paid to them by Debtor.

26. According to 11 U.S.C. § 110(l)(1), a fine of \$500 payable to Plaintiff may be assessed against any BPP for each violation of subsections (b-h). Therefore, the Court should assess a \$500 fine against Defendants, jointly and severally, payable to Plaintiff.

27. According to 11 U.S.C. § 110(l)(2)(D), the court shall triple the amount of a fine assessed under 11 U.S.C. § 110 (b), (c), (d), (e), (f), (g), or (h) in any case in which the court finds that a BPP prepared a document for filing in a manner that failed to disclose the identity of the BPP. It is alleged that Defendants Kelly Robbennolt and Mason Schau failed to disclose their identities as BPPs in this case. Therefore, the Court should triple the fine assessed pursuant to paragraph 26 above.

### **THIRD CLAIM FOR RELIEF**

#### **(Violation of 11 U.S.C. § 110(e)(2)(B)(vii))**

28. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through
- 27.
29. Defendants advised Debtor concerning bankruptcy procedures and rights.
30. Pursuant to 11 U.S.C. § 110(e)(2)(B)(vii), a BPP may not advise a debtor “concerning bankruptcy procedures and rights.” Defendants’ advice to Debtor violated this provision.
31. According to 11 U.S.C. § 110(h)(3)(B), “All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).” Therefore, the Court should order Defendants, jointly and severally, to disgorge the entire fee paid to them by Debtor.
32. According to 11 U.S.C. § 110(l)(1), a fine of \$500 payable to Plaintiff may be assessed against any BPP for each violation of subsections (b-h). Therefore, the Court should assess a \$500 fine against Defendants, jointly and severally, payable to Plaintiff.
33. According to 11 U.S.C. § 110(l)(2)(D), the court shall triple the amount of a fine assessed under 11 U.S.C. § 110 (b), (c), (d), (e), (f), (g), or (h) in any case in which the court finds that a BPP prepared a document for filing in a manner that failed to disclose the identity of the BPP. It is alleged that Defendants Kelly Robbennolt and Mason Schau failed to disclose their identities as BPPs in this case. Therefore, the Court should triple the fine assessed pursuant to paragraph 32 above.

## **FOURTH CLAIM FOR RELIEF**

### **(Violation of 11 U.S.C. § 110(e)(2)(B)(vi))**

34. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through
- 33.
35. Defendants, solicited financial information from Debtor through electronic communications with multiple individuals. Defendants used the responses provided by Debtor to generate the Schedules Debtor filed in his case. Defendants determined how and where to list the information provided by Debtor, including the categorization of assets as real, personal, or contractual, and the categorization of liabilities as secured, priority, general unsecured, or contractual.
36. Pursuant to 11 U.S.C. § 110(e)(2)(B)(vi), a BPP may not advise a debtor "concerning how to characterize the nature of the debtor's interests in property or the debtor's debts." Defendants' advice to Debtor violated this provision.
37. According to 11 U.S.C. § 110(h)(3)(B), "All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g)." Therefore, the Court should order Defendants, jointly and severally, to disgorge the entire fee paid to them by Debtor.
38. According to 11 U.S.C. § 110(l)(1), a fine of \$500 payable to Plaintiff may be assessed against any BPP for each violation of subsections (b-h). Therefore, the Court should assess a \$500 fine against Defendants, jointly and severally, payable to Plaintiff.
39. According to 11 U.S.C. § 110(l)(2)(D), the court shall triple the amount of a fine

assessed under 11 U.S.C. § 110 (b), (c), (d), (e), (f), (g), or (h) in any case in which the court finds that a BPP prepared a document for filing in a manner that failed to disclose the identity of the BPP. It is alleged that Defendants Kelly Robbennolt and Mason Schau failed to disclose their identities as BPPs in this case. Therefore, the Court should triple the fine assessed pursuant to paragraph 38 above.

### **FIFTH CLAIM FOR RELIEF**

#### **(Violation of 11 U.S.C. § 110(b)(1))**

40. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 39.

41. Pursuant to 11 U.S.C. § 110(b)(1), a BPP “shall sign the document and print on the document the preparer’s name and address.”

42. Defendants prepared at least five (5) documents for filing in the James Richard Bolt bankruptcy case. Furthermore, there are five (5) places within the documents filed in the James Richard Bolt bankruptcy that specifically call for the signature and identifying number of BPPs who prepared documents for filing. *See* Docket Entry #1 (11-80159), page 3 of 41, page 7 of 41, page 9 of 41, page 25 of 41, and page 30 of 41. Defendants Kelly Robbennolt and Mason Schau failed to sign or provide an address on any document that they prepared for filing in this case. Defendants’ failure to sign the documents they prepared for filing in this case constitutes a violation 11 U.S.C. § 110(b)(1).

43. According to 11 U.S.C. § 110(h)(3)(B), "All fees charged by a bankruptcy petition

preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g)." Therefore, the Court should order Defendants Robbennolt and Schau, jointly and severally, to disgorge the entire fee paid to them by Debtor.

44. According to 11 U.S.C. § 110(l)(1), a fine of \$500 payable to Plaintiff may be assessed against any BPP for each violation of subsections (b-h). Therefore, the Court should assess a fine of at least \$2,500 against Defendants Robbennolt and Schau, jointly and severally, payable to Plaintiff.

45. According to 11 U.S.C. § 110(l)(2)(D), the court shall triple the amount of a fine assessed under 11 U.S.C. § 110 (b), (c), (d), (e), (f), (g), or (h) in any case in which the court finds that a BPP prepared a document for filing in a manner that failed to disclose the identity of the BPP. It is alleged that Defendants Kelly Robbennolt and Mason Schau failed to disclose their identities as BPPs in this case. Therefore, the Court should triple the fine assessed pursuant to paragraph 44 above.

## **SIXTH CLAIM FOR RELIEF**

### **(Violation of 11 U.S.C. § 110(c)(1))**

46. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through

45.

47. According to 11 U.S.C. § 110(c)(1), a BPP “shall place on the document, after the

preparer's signature, an identifying number<sup>1</sup> that identifies individuals who prepared the document." There are at five (5) places within the documents filed in the James Richard Bolt bankruptcy that specifically call for the signature and identifying number of BPPs who prepared documents for filing. *See* Docket Entry #1 (11-80159), page 3 of 41, page 7 of 41, page 9 of 41, page 25 of 41, and page 30 of 41. No identifying number for Kelly Robbennolt or Mason Schau is found on any document that was filed in this case. Defendants' failure to provide appropriate identifying numbers on documents they prepared for filing in this case constitute a violation 11 U.S.C. § 110(c)(1).

48. According to 11 U.S.C. § 110(h)(3)(B), "All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g)." Therefore, the Court should order Defendants Kelly Robbennolt and Mason Schau, jointly and severally, to disgorge the entire fee paid to them by Debtor.

49. According to 11 U.S.C. § 110(l)(1), a fine of \$500 payable to Plaintiff may be assessed against any BPP for each violation of subsections (b-h). Therefore, the Court should assess a \$2500 fine against Defendants Kelly Robbennolt and Mason Schau, jointly and severally, payable to Plaintiff.

50. According to 11 U.S.C. § 110(l)(2)(D), the court shall triple the amount of a fine assessed under 11 U.S.C. § 110 (b), (c), (d), (e), (f), (g), or (h) in any case in which the court finds that a BPP prepared a document for filing in a manner that failed to disclose the identity of the BPP. It is alleged that Defendants Kelly Robbennolt and Mason Schau failed to disclose

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<sup>1</sup>11 U.S.C. § 110(c)(2)(A) states that "the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation."

their identities as BPPs in this case. Therefore, the Court should triple the fine assessed pursuant to paragraph 49 above.

### **SEVENTH CLAIM FOR RELIEF**

#### **(Request for Injunctive Relief Pursuant to 11 U.S.C. § 110(j))**

51. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through

50.

52. Defendants' actions described in detail in paragraphs 1 through 51 above violate 11 U.S.C. § 110(e), (f), and (i), and constitute fraudulent, unfair, or deceptive conduct.

Injunctive relief is appropriate to prevent the recurrence of this conduct.

53. According to 11 U.S.C. § 110(j)(2)(A):

[I]f the court finds that--(i) a bankruptcy petition preparer has--(I) engaged in conduct in violation of this section or of any provision of this title; . . . or (III) engaged in any other fraudulent, unfair, or deceptive conduct; and (ii) injunctive relief is appropriate to prevent the recurrence of such conduct, the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

Therefore, the Court should enjoin the Defendants from engaging in the conduct described above in the future, enforceable in all federal jurisdictions.

### **PRAYER**

**WHEREFORE**, Plaintiff respectfully prays an order from the Court as follows:

#### **AS TO THE FIRST CLAIM FOR RELIEF:**

A. Disgorging the entire fee paid to Defendants, jointly and severally, to be returned to Debtor;

- B. Awarding damages against Defendants, jointly and severally, to Debtor in the amount of \$2,000 plus actual damages as proved at trial;

**AS TO THE SECOND CLAIM FOR RELIEF:**

- A. Disgorging the entire fee paid to Defendants, jointly and severally, to be returned to Debtor;
- B. Imposing a fine upon Defendants, jointly and severally, of \$500.00, payable to Plaintiff;
- C. Tripling the \$500 fine as to Robbennolt and Schau to total \$1,500, payable to Plaintiff;

**AS TO THE THIRD CLAIM FOR RELIEF:**

- A. Disgorging the entire fee paid to Defendants, jointly and severally, to be returned to Debtor;
- B. Imposing a fine upon Defendants, jointly and severally, of \$500.00, payable to Plaintiff;
- C. Tripling the \$500 fine as to Robbennolt and Schau to total \$1,500, payable to Plaintiff;

**AS TO THE FOURTH CLAIM FOR RELIEF:**

- A. Disgorging the entire fee paid to Defendants, jointly and severally, to be returned to Debtor;
- B. Imposing a fine upon Defendants, jointly and severally, of \$500.00, payable to Plaintiff;
- C. Tripling the \$500 fine as to Robbennolt and Schau to total \$1,500, payable to Plaintiff;



**AS TO THE FIFTH CLAIM FOR RELIEF:**

- A. Disgorging the entire fee paid to Defendants Robbennolt and Schau, jointly and severally, to be returned to Debtor;
- B. Imposing a fine upon Defendants Robbennolt and Schau, jointly and severally, of \$2,500.00, payable to Plaintiff;
- C. Tripling the \$2,500 fine as to Robbennolt and Schau to total \$7,500, payable to Plaintiff;

**AS TO THE SIXTH CLAIM FOR RELIEF:**

- A. Disgorging the entire fee paid to Defendants Robbennolt and Schau, jointly and severally, to be returned to Debtor;
- B. Imposing a fine upon Defendants Robbennolt and Schau, jointly and severally, of \$2,500.00, payable to Plaintiff;
- C. Tripling the \$2,500 fine as to Robbennolt and Schau to total \$7,500, payable to Plaintiff;

**AS TO THE SEVENTH CLAIM FOR RELIEF:**

- A. Enjoining Defendants, jointly and severally, from engaging in the conduct which violates 11 U.S.C. § 110 as complained of in the First through Sixth Claims for Relief , enforceable in any and all federal jurisdictions.

**AS TO ALL CLAIMS FOR RELIEF:**

Such further relief as may be proper as deemed by the Court.

Respectfully Submitted,  
RICHARD A. WIELAND  
United States Trustee

/s/ Paul R. Thomas

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